

**CALENDAR ITEM
C26**

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09/20/13
PRC 4855.1
W. Hall

TERMINATION AND ISSUANCE OF A GENERAL LEASE – RECREATIONAL USE

LESSEE:

Jean M. Sheldon First Family Limited Partnership

APPLICANTS:

Sean J. Keene and Ammanda E. Keene, Trustees of the Sean and Ammanda Keene 2004 Trust, Dated August 19, 2008 as amended

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 5820 North Lake Boulevard, near Agate Bay, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing pier and two mooring buoys previously authorized by the Commission; and removal of three existing unattached pilings not previously authorized by the Commission.

LEASE TERM:

10 years, beginning November 28, 2012.

CONSIDERATION:

\$1,821 per year, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

Insurance:

Liability insurance in an amount of no less than \$1,000,000 per occurrence.

Other:

The proposed lease contains a provision requiring the Applicants to obtain authorization from the Tahoe Regional Planning Agency (TRPA) for the mooring buoys within two years after the adoption of a Final Environmental Impact Statement (FEIS) for the Lake Tahoe Shorezone Ordinance Amendments and approval of the amended ordinances. This is

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a continuation of the process the Commission used from approximately 1995 to October 2008 when TRPA adopted an FEIS and Ordinance Amendments supported by the FEIS. In September 2010, the U.S. District Court invalidated the FEIS and nullified the Amendments. When additional information is available, Commission staff will advise the Commission on any suggested modifications to the process used by the Commission pending resolution of the TRPA FEIS and amended ordinance issues.

OTHER PERTINENT INFORMATION:

1. Applicants own the upland adjoining the lease premises.
2. On April 17, 2006, the Commission approved a General Lease - Recreational Use with Jean M. Sheldon First Family Limited Partnership. That lease will expire on October 27, 2015.
3. On November 28, 2012, the upland was deeded to Sean J. Keene and Ammanda E. Keene, Trustees of the Sean and Ammanda Keene 2004 Trust, Dated August 19, 2008 as amended. The Applicants are now applying for a new General Lease – Recreational Use. Because staff has been unable to locate the Lessee to execute a quitclaim deed, staff recommends termination of the existing lease and issuance of a new lease to the Applicants.
4. Staff identified three unattached pilings near the pier, which have been in Lake Tahoe for many years but have not been previously authorized by the Commission. Assessor records show the pilings were installed in 1955 as structural support for a sundeck. The sundeck was removed sometime prior to 1970, with the pilings remaining in the lake. Applicants state they do not use the pilings and are requesting to remove them from the lakebed.
5. Applicants have hired a contractor to pull the pilings from the bed of the lake using a barge and shall obtain all required regulatory authorizations and permits prior to removal of the pilings. Removal activities are confined to the in-water work windows stipulated by the California Department of Fish and Wildlife, TRPA, or other regulatory agency. It is anticipated that the pilings will be removed prior to December 31, 2013.
6. **Lease Termination:** The staff recommends that the Commission find that the subject lease termination does not have a potential for resulting in

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either a direct or a reasonably foreseeable indirect physical change in the environment, and is, therefore, not a project in accordance with the California Environmental Quality Act (CEQA).

Authority: Public Resources Code section 21065 and California Code of Regulations, Title 14, sections 15060, subdivision (c)(3), and 15378.

7. **Issuance of Lease:** The staff recommends that the Commission find that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, Title 14, section 15300 and California Code of Regulations, Title 2, section 2905.

8. **Piling Removal:** The staff recommends that the Commission find that this activity is exempt from the requirements of CEQA as a categorically exempt project. For removal of three unattached pilings, the project is exempt under Class 4, Minor Alteration to Land; California Code of Regulations, Title 2, section 2905, subdivision (d)(3).

Authority: Public Resources Code section 21084 and California Code of Regulations, Title 14, section 15300 and California Code of Regulations, Title 2, section 2905.

9. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission

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CEQA FINDING:

Lease Termination: Find that the subject lease termination is not subject to the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15060, subdivision (c)(3), because the subject activity is not a project as defined by Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378.

Issuance of Lease: Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

Piling Removal: Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15061 as a categorically exempt project, Class 4, Minor Alteration to Land; California Code of Regulations, Title 2, section 2905, subdivision (d)(3).

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

1. Authorize termination, effective November 27, 2012, of Lease No. PRC 4855.1, a General Lease - Recreational Use, issued to Jean M. Sheldon First Family Limited Partnership.

2. Authorize issuance of a General Lease – Recreational Use to Sean J. Keene and Ammanda E. Keene, Trustees of the Sean and Ammanda Keene 2004 Trust, dated August 19, 2008 as amended beginning November 28, 2012, for a term of 10 years, for the continued use and maintenance of an existing pier and two mooring buoys previously authorized by the Commission and removal of three existing unattached pilings not previously authorized by the Commission, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$1,821, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 4855.1

LAND DESCRIPTION

Three parcels of submerged lands situated in the bed of Lake Tahoe, lying adjacent to Lot 2 of fractional Section 15, Township 16 North, Range 17 East, M.D.B.&M., as shown on Official Government Township Plat approved November 10, 1865, County of Placer, State of California, more particularly described as follows:

PARCEL 1 – PIER

All those lands underlying an existing pier and two catwalks lying adjacent to that parcel described in Grant Deed recorded November 28, 2012 as Document Number 2012-0113873-00 in Official Records of said County.

TOGETHER WITH a 10' impact area.

EXCEPTING THEREFROM any portion lying landward of elevation 6223 feet LTD on the shoreline of said Lake Tahoe.

PARCELS 2 & 3 – BUOYS

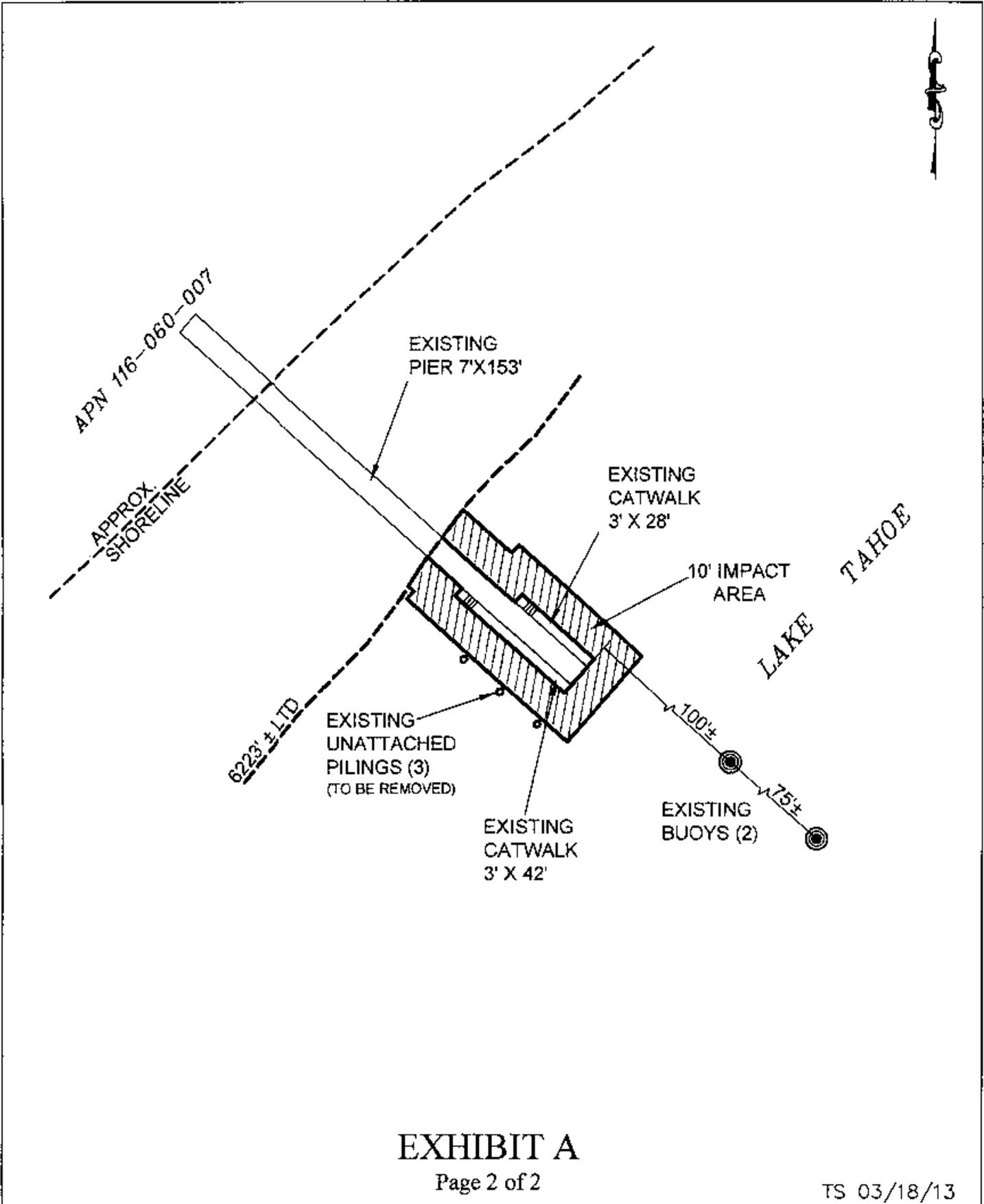
Two circular parcels of land, being each 50 feet in diameter, underlying two existing buoys lying adjacent to that parcel described in Grant Deed recorded November 28, 2012 as Document Number 2012-0113873-00 in Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared 03/18/2013 by the California State Lands Commission Boundary Unit.

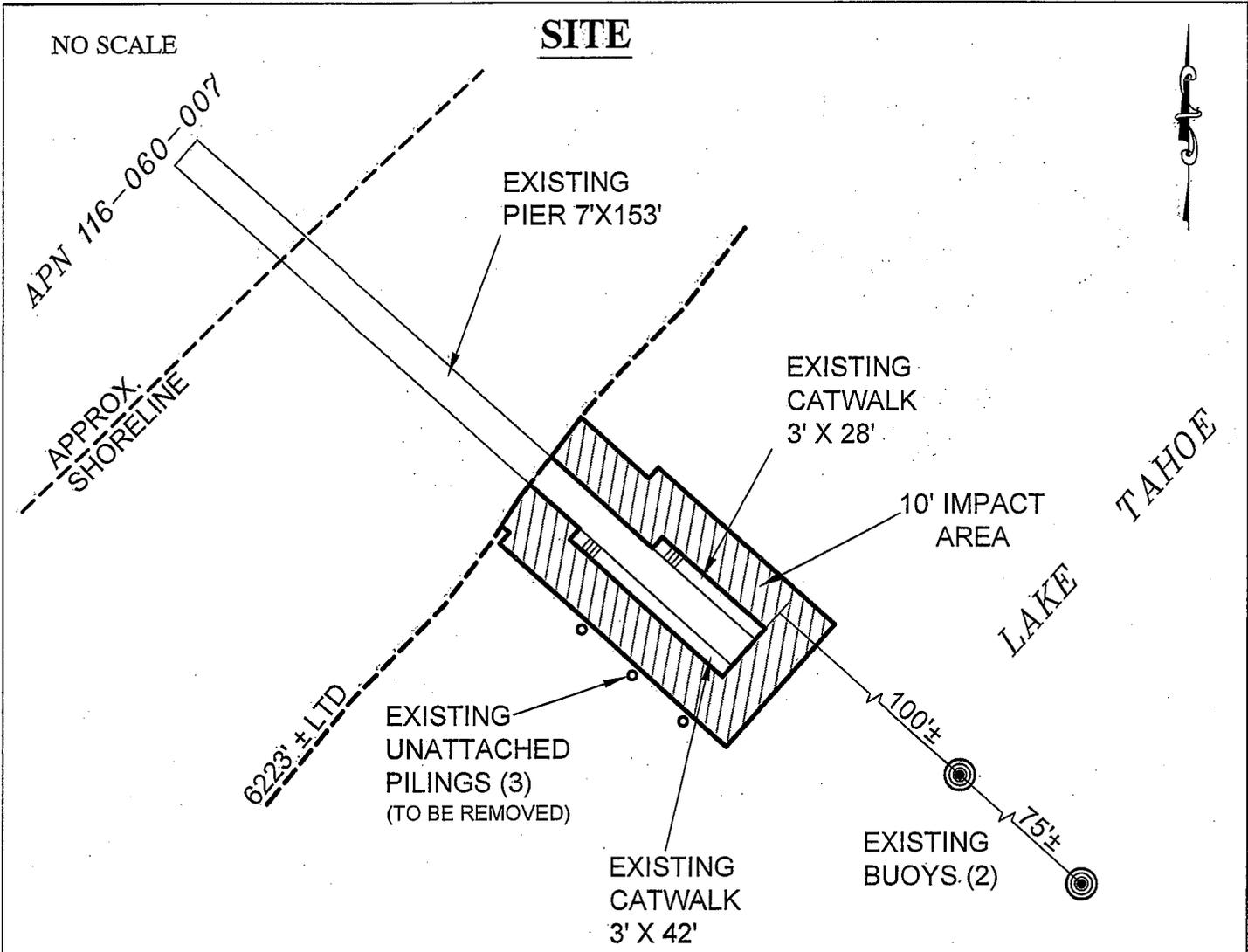




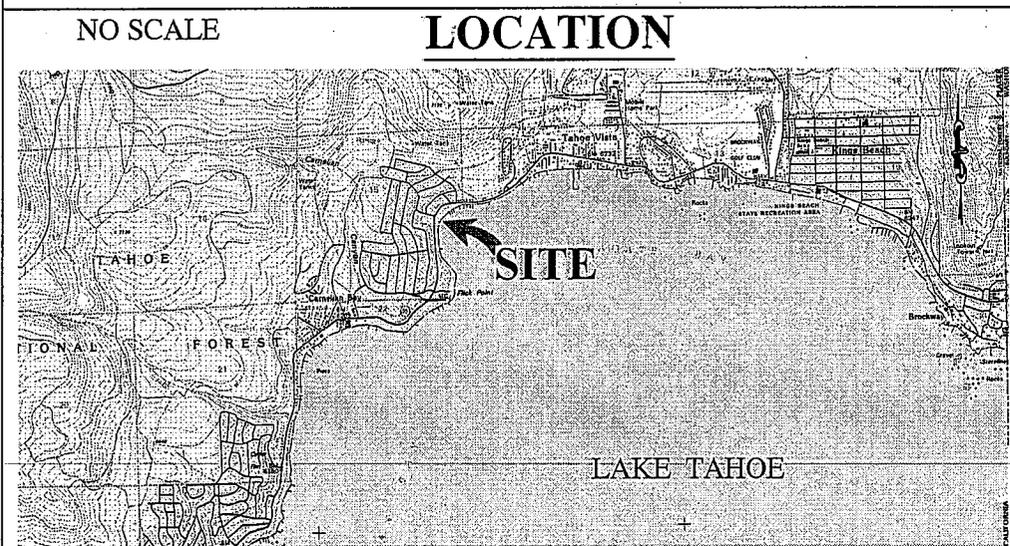
LAND DESCRIPTION PLAT
 PRC 4855.1, KEENE
 PLACER COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



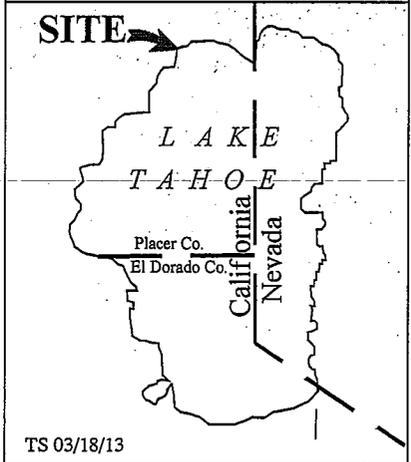


5820 NORTH LAKE BLVD., NEAR AGATE BAY



MAP SOURCE: USGS QUAD

Exhibit B
 PRC 4855.1
 KEENE
 APN 116-060-007
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY



This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.